

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

KENDRA JOHNSON, Executor of
the Estate of Faye B. Johnson,

Plaintiff,

v.

AMERICAN NATIONAL BANK,
(Greg Keholm),

Defendant.

8:11CV121

**MEMORANDUM
AND ORDER**

This matter is before the court on its own motion. In this action, it appears that Plaintiff filed her claims individually and as “executor” of the estate of a deceased individual, Faye B. Johnson. (Filing No. 1.) However, as the court informed Plaintiff in its previous Memorandum and Order, where a pro se plaintiff is not the sole beneficiary and creditor of an estate, proceeding pro se constitutes the unauthorized practice of law and the matter should not be allowed to proceed without the estate obtaining counsel. (Filing No. 7 at CM/ECF pp. 1-2.) See [*Jones ex rel. Jones v. Corr. Med. Servs., Inc.*, 401 F.3d 950, 952 \(8th Cir. 2005\)](#).

In a Memorandum and Order dated April 8, 2011, the court gave Plaintiff until May 6, 2011, to either obtain counsel to represent the estate or submit an affidavit or other evidence that proves she is the sole beneficiary and creditor of the estate. (Filing No. 7 at CM/ECF p. 2.) Plaintiff was warned that failure to do so would result in this matter being dismissed without further notice. (*Id.*) Plaintiff has not responded to the court’s April 8, 2011, Memorandum and Order in any way and, therefore, her claims must be dismissed. To the extent Plaintiff filed her claims individually, it is clear from the face of the Complaint that her claims derive from the estate and cannot be prosecuted separately, and so this matter will be dismissed in its entirety.

IT IS THEREFORE ORDERED that:

1. This matter is dismissed without prejudice.
2. A separate judgment will be entered in accordance with this Memorandum and Order.
3. All pending motions are denied as moot.

DATED this 16th day of May, 2011.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge

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